WP(C) 3799/2004
BEFORE
THE HON'BLE MR JUSTICE D. BISWAS, CHIEF JUSTICE (ACTING)
THE HON'BLE MR. JUSTICE B.P. KATAKEY

This writ petition by the Union of India is directed against the order dated 26th March, 2003 passed by the learned Central Administrative Tribunal, Guwahati Bench, Guwahati in Original Application No.322/2002 filed by the respondent herein whereby and whereunder the learned Tribunal has directed the petitioners to extend the benefit of the pay attached to the skill grade employees.

2. The respondents herein initially filed O.A. No.238/1997 praying for a direction to the petitioners to extend the higher scale of pay in the skill grade by contending that the nature of the works done by them and the duties and responsibilities attached to the posts Tent Mendor, Rope Workers, Chuckler and Cycle Fitter, being a skill grade, they cannot be classified in semi-skilled grade and is to be classified as skill grade. The said O.A. was disposed of by the learned Tribunal by the order dated 5.12.1997 directing the applicants therein to submit representation before the authority who is to dispose of the same within a specified time. Failing to get any appropriate relief, the respondents herein again moved the learned Tribunal in O.A. No.196/1999 for directing the present petitioners to provide them with the pay of skill grade with effect from October, 1980 and in terms of the judgment of the Apex Court in Bhagwan Sahai Carpenter and ors. Vs. Union of India and another, reported in (1989) 2 SCC 299 as well as the Tribunal's earlier order dated 19.10.1995 passed in O.A. No.158/1994 giving such benefits to the tailors. The said O.A. was disposed of by directing the concerned respondents to move the case for Presidential sanction and concurrence of the concerned Ministry of the Government for upgrading the grade from semi-skill to skill grade. Pursuant to the said direction, the petitioners in appropriate Department vide order dated 14.5.2002 considered the case of the present respondents and declined to upgrade the grade from semi-skill to skill and refused to grant the benefit of the pay scale attached to the skill grade. The respondents, therefore, filed the present O.A. in question before the learned Tribunal which has been allowed by the order impugned in this present writ petition.

3. We have heard Ms. Das, learned Central Government Counsel as well as Mr. S. Sarma, learned counsel appearing on behalf of the Respondents.

4. The learned Tribunal by the impugned order dated 26th Matrch, 2003 directed the petitioners herein to extend the benefit of the pay scale attached to the skill grade solely on the basis of the order passed by the learned Tribunal in O.A. No.158/1994 which relates to the persons employed as Tailor and which was after due consideration by the authority was graded as skilled and the benefit of the skill grade were extended to such employees. The authorities after due consideration of the entire materials on record including the evaluation of the matter by the expert committees, namely - Expert Classification Committee as well as the Anomalies Committee refused to upgrade the trades of the respondents herein as skill grade, as, such expert committees having regard to the entire facts and circumstances refused to do the same. It also appears from the order dated 14.5.2002 that even the Fourth and Fifth Pay Committee which are also the expert bodies did not recommend the skill grade to the trade. Such bodies being the expert bodies, the recommendations made by them, in the absence of any material to the contrary, has to be accepted, more so when it is not the function of the Court to grade any trade as skilled or semi-skilled.

5. The submission made by the learned counsel for the respondents that even

the Apex Court in Bhagwan Sahai Carpenter (supra) has granted the higher scale of pay attached to the skill grade to the persons who were in semi-skill grade and, therefore, the learned Tribunal has not committed any illegality in passing the impugned order, cannot be accepted in view of the fact that the Apex Court in Bhagwan Sahai Carpenter (supra) has not classified or upgraded any semi-skill grade to skill grade and granted the benefit of the skill grade to the semi-skill grade. What has been granted is the benefit with retrospective effect, on the basis of the decision of the Government to upgrade such semi-skill grade to the skill grade, on the basis of the recommendation of the expert bodies. That being the position, we are unable to accept the reasoning given by the learned Tribunal in granting the benefit of the pay attached to the skill grade to the respondents, who have not been granted the same by such expert bodies, as discussed above. Hence, the order passed by the learned Tribunal requires interference, which we accordingly do. The order passed by the learned Tribunal is, therefore, set aside.

6. This writ petition accordingly stands allowed.

7. No costs.